

Neutral Citation Number: [2018] EWCA Crim 373

No: 201703479/A3

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Tuesday, 20 February 2018

B e f o r e:

LORD JUSTICE HAMBLÉN

MR JUSTICE SWEENEY

RECORDER OF GREENWICH
(HIS HONOUR JUDGE KINCH QC)
(Sitting as a Judge of the CACD)

R E G I N A

v

SAMUEL JONATHAN LANGLEY

Computer Aided Transcript of the Stenograph Notes of WordWave International Ltd trading as DTI, 165 Street London EC4A 2DY, Tel No: 020 7404 1400 Fax No: 020 7831 8838 (Official Shorthand Writers to the Court)

Ms E Coverley appeared on behalf of the **Applicant**

J U D G M E N T (Approved)

If this transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

1. MR JUSTICE SWEENEY: On 13 June 2017 in the Crown Court at Nottingham the applicant, who is now aged 30, pleaded guilty to two offences of robbery (Counts 1 and 3) and two associated offences of having a bladed article (Counts 2 and 4).
2. On 6 July 2017 the applicant was sentenced by His Honour Judge Sampson to 6 years' imprisonment on Count 3, to 3 years 4 months' imprisonment consecutive on Count 1, and to 2 years' imprisonment concurrent on each of Counts 2 and 4, making a total sentence of 9 years 4 months' imprisonment.
3. He now applies for an extension of time of 17 days in which to renew his application for leave to appeal against sentence following refusal by the single judge.
4. The facts are set out in the Criminal Appeal Office summary.
5. It suffices to record that the applicant had 14 previous convictions spanning the period from June 2003 to March 2017, including convictions for having a bladed article in 2004, assault with intent to rob in 2004, and robbery in 2010.
6. The two pairs of offences were committed on 25 April 2017 and 7 May 2017 respectively. Each involved a small convenience store in Hucknell. The first was manned by a single female member of staff, the second by two female members of staff. In each the appellant endeavoured to hide his identity and was armed with a large kitchen knife. In the first the appellant acted alone. In the second, he had an accomplice, who

carried out an initial reconnoitre on his own, and later entered with the appellant to carry out the robbery. In the first £600 - £800 in cash was stolen, in the second £750 in cash was stolen. Both robberies were caught on CCTV. Unsurprisingly, all three victims were greatly traumatised by what had happened to them. At the second shop the business was, in consequence, closed by its owner - who was unable to sell it and, as a result, he lost his retirement nest egg, and his employees lost their jobs.

7. The applicant was arrested on 15 May 2017. He made "no comment" in interview.
8. There was no pre-sentence report but such was, in our view, unnecessary.
9. In passing sentence the judge rehearsed the facts and concluded that each robbery fell into category 2A of the relevant Guideline, but with a number of aggravating features - they were planned, the second was a joint offence, the appellant's previous convictions, the attempts to conceal identity at both shops, and the fact that the victims were each vulnerable to a certain extent.
10. As to Count 3, the judge identified a notional sentence after trial of 9 years, and as to Count 1, one of 8 years – which he reduced in order to reflect the principle of totality, resulting in a sentence of 5 years and thus a total notional sentence of 14 years which, less full discount for plea, gave the ultimate sentences and the total sentence to which we have already referred.
11. The co-accused, in so far as the second robbery was concerned, who also fell to be dealt with for other offences, was sentenced to a total of 6 years and 6 months' imprisonment.
12. There are two Grounds of Appeal: (i) that the starting point was too high, even given the

aggravating features and (ii) that too little allowance was made for the principle of totality.

13. On the applicant's behalf Ms Coverley submits that whilst the production of the knife was self-evident at both robberies, there were no additional threats involved (albeit that, as is obvious from the CCTV footage, each victim was clearly intimidated by its sight). This was, Ms Coverley submits, offending that was at the lower end of category A at worst, and ought more appropriately to have been regarded as being within category B. It was, given that there was no significant actual use of force, offending which fell towards medium culpability. Whilst there were accepted to be various aggravating features, relatively little weight attached, Ms Coverley submits, to the appellant's previous convictions, it being the position that his last robbery conviction was in 2010. Thus, while there was an element of targeting, some planning, rudimentary attempts at disguise, and consequence for each of the victims, the judge had taken too high a starting point.

14. As to the second Ground, Ms Coverley submits that the judge did not make enough allowance in relation to proportionality which, had he done so, would have resulted in the imposition of a lesser total sentence.

15. The issue as to whether the offence in Count 3 fell within category 1A, or within category 2A or B, was ventilated in the court below, with the judge being persuaded that it fell into category 2A. However, we have no doubt that that offence fell into category 1A – given that the plans of the owner to sell the business in 2018 were clearly frustrated by the robbery, such that, as he made clear in his victim personal statement, he was unable to sell the business and it had to close - thus he lost his retirement nest egg and his employees lost their jobs.

16. It seems to us that was the correct route by which to arrive at the notional sentence after trial. Hence, albeit that the Judge got there by a different route, there is no arguable merit in the criticism of the sentence imposed on Count 3. Likewise, it seems to us that the sentence ultimately imposed consecutively, in relation to Count 1, was a sentence which not only respected the principle of totality but also resulted in an overall sentence that was entirely proportionate to the gravity of the applicant's offending.

17. In those circumstances, we agree with the single judge that the Grounds sought to be advanced are unarguable. Therefore, this application is refused.

WordWave International Ltd trading as DTI hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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